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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/670,595	09/25/2003	Richard Jean-Pierre	1076-002US01	7492
28863 7590 04/10/2007 SHUMAKER & SIEFFERT, P. A. 1625 RADIO DRIVE SUITE 300 WOODBURY, MN 55125			EXAMINER COLLINS, MICHAEL	
			ART UNIT 3651	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		04/10/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/670,595	Applicant(s) JEAN-PIERRE, RICHARD	
	Examiner Michael K. Collins	Art Unit 3651	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 January 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) 9 and 10 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8, 11, 12, 14-25 and 27-33 is/are rejected.
- 7) ☒ Claim(s) 7, 13, 26, 34 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- Regarding claim 1, the applicant discloses, "A controller for directing the communication link to receive and transmit and the memory to store the medication-taking data." This is not clear the controller is for directing the link to receive and transmit and the memory?
- Claim 2 recites the limitation "medication-taking data" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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4. Claims 1-6, 8, 11-12, 14-25, and 27-33 are rejected under 35 U.S.C. 102(e) as being anticipated by Walker et al. (USPGPUB 2007/0073560).

Regarding claim 1, Walker et al. disclose a medication compliance device comprising:

- a base station (708) having a local wireless communication link, user interface and a memory
- a portable cap (102) assembly for association with a container (102a, 110, 112, 114) of medication, the portable cap assembly comprising:
 - a local wireless communication link (see abstract)
 - a memory [0058]
 - an indicator (120)
 - a sensor [0142]
 - a controller [0048] for directing the communication link to receive and transmit and the memory to store the medication-taking data, for directing the indicator to activate according to the medication-taking data, for directing the sensor to gather and the memory to store the compliance data that indicates whether the sensor sensed that a user has taken a plurality of doses of the medication in compliance with the medication-taking data and for directing the local wireless communication link to transmit the compliance data to the base station,

- wherein the base station receives the compliance data from the cap assembly via the local wireless communication link, stores the compliance data in the memory of the base station, and presents the compliance data via the user interface.

Regarding claim 2, Walker et al. disclose the device of claim 1 wherein the medication-taking data further comprises a medication-taking regimen (see abstract).

Claim 3 (Currently Amended): The device of claim 1 wherein the portable cap assembly further comprises:

a transparent top with a child-proof lock mechanism.

Regarding claim 4, Walker et al. disclose the device of claim 1 wherein the communication link comprises infrared light emitting diode (see paragraph [0181]).

Regarding claim 5, Walker et al. disclose the device of claim 1 wherein the base station transmits the compliance data to a remote location through a data network.

Regarding claim 6, Walker et al. disclose the device of claim 1 wherein the portable cap assembly further comprises:

- a cap
- a collar between the cap and an opening of the container for attaching the cap to the container, the collar including the memory of the cap assembly

Regarding claim 8, Walker et al. disclose the device of claim 1 wherein the indicator comprises at least one of a visual indicator, an audible indicator, or a tactile indicator (see paragraph [0056]).

Regarding claim 11, Walker et al. disclose a medication compliance system comprising:

- a portable cap assembly for attaching to a container, the cap assembly having memory for storing medication-taking data and compliance data, local wireless communication for transmitting the medication-taking data and compliance data, a first indicator for indicating when a user should take a dose of medication stored in the container based on the medication-taking data, and a sensor for sensing that the user has taken the dose of medication, wherein the compliance data stored in the memory indicates whether the sensor sensed that the user has taken a plurality of doses of medication in compliance with the medication-taking data (see paragraph [0056])
- a base station (708) that supports local wireless communication for receiving the medication-taking data and the compliance data from the portable cap assembly, base station memory for storing the medication-taking data and the compliance data, a user-interface for presenting the compliance data and wired communication for transmitting the compliance data to a remote location (see paragraphs [0092]-[0095]).

Regarding claim 12, Walker et al. disclose the device system of claim 11 wherein the portable cap assembly further comprises:

- a collar connected adjacent an opening of the container, collar comprising the memory of the portable cap assembly (see paragraph [0176])
- a cap removably attached to the collar, wherein the collar is positioned between the cap and the opening.

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Regarding claim 14, Walker et al. disclose the system of claim 11 wherein the base station is programmed with medication-taking data from a remote location.

Regarding claim 15, Walker et al. disclose the system of claim 11 and further comprising a computer terminal electrically coupled to the programming station for programming the portable cap assembly with the medication-taking data.

Regarding claim 16, Walker et al. disclose the system of claim 11 wherein the base station further comprises:

- a second indicator for indicating when the user should take the dose of medication based on the medication-taking data received from the cap; and
- wherein the second indicator is activated when the cap is within a range for local wireless communication with the base station.

Regarding claim 17, Walker et al. disclose the medication compliance system comprising:

- a portable medication, dispenser (102,110,112,114) including an indicator for inducing compliance with medication-taking data, and a sensor for obtaining compliance data over time regarding consumption of contents of the dispenser;
- a base station (102c) in local wireless communication with the dispenser, wherein the base station receives the compliance data from the dispenser, and displays the compliance data to a user
- a first remote computer (106) in communication with the base station, the first computer for receiving the compliance data from the base station

Regarding claim 18, Walker et al. disclose the system of claim 17 wherein the base station and first computer communicate through a data network (108).

Regarding claim 19, Walker et al. disclose the system of claim 18 wherein the data network is coupled to a data server for storing data for the system.

Regarding claim 20, Walker et al. disclose the system of claim 17 wherein a second computer (116) transmits the medication-taking data to the base station, which transmits the medication-taking data to the dispenser.

Regarding claim 21, Walker et al. disclose a medication compliance device comprising:

- a collar for attaching adjacent an opening of a medication container, the collar having a first communication link and a memory for storing medication-taking data and compliance data
- a cap attached to the collar such that the collar is between the cap and the opening, the cap further comprising:
 - a first communication link (704)
 - an indicator for inducing compliance with the medication-taking data
 - a sensor for sensing compliance with the medication-taking data
 - a microcontroller (702) for engaging communication with the collar through the communication link, activating the indicator according to the medication-taking data, and gathering the compliance data regarding a plurality of sensed compliance events from the sensor, and storing the

compliance data in the memory, of the collar via the first communication link.

Regarding claim 22, Walker et al. disclose the device of claim 21 wherein the cap further comprises a second communication link for transmitting the medication-taking data and compliance data such that the clam is accessible through a data network (see paragraph [0091]).

Regarding claim 23, Walker et al. disclose the device of claim 21 wherein the collar further comprises a second communication link for receiving the medication-taking data.

Regarding claim 24, Walker et al. disclose the device of claim 21 wherein the indicator is a visual indicator.

Regarding claim 25, Walker et al. disclose the device of claim 21 wherein the indicator is an audio indicator.

Regarding claim 27, Walker et al. disclose the method of inducing and tracking compliance with a medication-taking regimen, the method comprising:

- receiving medication-taking data in a portable medication container;
- alerting a user to take a dose of medication based on the medication-taking data
- gathering compliance data in the portable medication container over time regarding consumption of contents of the portable medication container; and
- transmitting the compliance data from the portable medication container to a base station by local wireless communication; and
- presenting the compliance data to the user via the base station.

Regarding claim 28, Walker et al. disclose the method of claim 27 further comprising:

- transmitting the compliance data from the base station to a data network; and
- accessing the compliance data from the network.

Regarding claim 29, Walker et al. disclose the method of claim 27 wherein medication-taking data is received and compliance data is gathered for a plurality of users.

Regarding claim 30, Walker et al. disclose the method of claim 27 wherein medication-taking data is received and compliance data is gathered for a plurality of medications.

Regarding claim 31, Walker et al. disclose the method of claim 28 wherein accessing the compliance data is carried out with proprietary software for programming a remote terminal, tracking the medication-taking data and compliance data, displaying the medication-taking data and compliance data, and generating custom reports.

Regarding claim 32, Walker et al. disclose the method of claim 27, further comprising transmitting the medication-taking data from the portable medication to the base station by local wireless communication, wherein alerting a user to take a dose of medication based on the medication-taking data comprises alerting the user to take the dose of medication via the base station.

Regarding claim 33, Walker et al. disclose the device of claim 21, wherein the collar is located between the cap and the opening of the medication container.

Allowable Subject Matter

5. Claim 7, 13, 26, and 34 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

6. Applicant's arguments, see page 1 of the remarks, filed 1/22/2007, with respect to claim objections have been fully considered and are persuasive. The objection of the numbering has been withdrawn.

7. Applicant's arguments, see page 1 of the remarks, filed 1/22/2007, with respect to rejection under 35. U.S.C. §112 have been fully considered and are persuasive. The rejections of claims 4 and 16 have been withdrawn.

8. Applicant's arguments with respect to claims 1-8 and 11-34 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

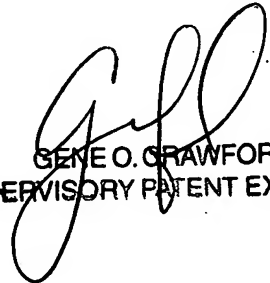
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael K. Collins whose telephone number is (571) 272-8970. The examiner can normally be reached on 8:30 am - 5:00 pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene O. Crawford can be reached on (571) 272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

M.C.
4/2/2007



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